

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

September 5, 2002

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, September 5, 2002, beginning at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Barr, Chairman; Mr. John Meadows, Vice Chairman; Mrs. Margaret Mailler, Mr. James Van Luven; Mr. Eugene Lofdahl and Ms. Sonja Addison. Also present were Mrs. Tracy Gallehr, Assistant County Attorney; Mr. Fred Hodge, Assistant Zoning Administrator, Ms. Holly Meade, Zoning Planner and Ms. Nancy Albert, Office Associate III.

MINUTES: On motion made by Mr. Meadows and seconded by Mr. Lofdahl, the approval for the August 1, 2002 minutes was postponed until the October 3, 2002 meeting, the motion carried unanimously.

LETTERS OF NOTIFICATIONS & PUBLIC NOTICE: The Assistant Zoning Administrator stated that to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners. Mr. Barr asked Ms. Albert to read the Public Hearing Protocol and it was read.

VARIANCE #49870 MICHAEL R. & RACHEL M. PIERCE (OWNERS)

Applicants are requesting a variance to a front yard setback requirement for an existing deck constructed by previous owner and for a proposed deck that includes an aboveground pool. The existing deck is 39' 10.8" from the centerline of Mosby Drive. The proposed deck and aboveground pool also will be 39' 10.8' from the centerline of Mosby Drive, wherein the Zoning Ordinance requires 50'. The subject property is identified as PIN #6995-02-9814, containing approximately 0.231 acres, located at 7267 Chestnut Court, Center Magisterial District, Warrenton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Michael Pierce appeared at the meeting representing his variance. He stated the staff report given by Mr. Hodge was correct.

No one else spoke in favor or against the application.

On motion made by Mr. Lofdahl and seconded by Mr. Meadows, in application No. 49870, it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the layout of the lot with respect to the streets.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are having three front yards and one side for a back yard.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as amendment to the Ordinance.
9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is 10' 1.2".

The motion carried unanimously.

SPECIAL PERMIT #50061 THE MARY ANN BRINEGAR SHOUP REVOCABLE TRUST (OWNER)

Applicants are requesting a special permit to locate a bed and breakfast operation on their property, utilizing an existing guest house for overnight accommodations for one adult couple, with no children or pets. The subject property is located at 5626 Wilson Road, Marshall Magisterial District, Marshall, Virginia.

Mr. Hodge stated a site visit was made this morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Harold Shoup appeared at the meeting representing the special permit. He stated the staff report given by Mr. Hodge was correct.

Mr. Hodge stated upon exiting the property a concern arose about foliage blocking the view along Wilson Road to the north of the driveway.

Mr. Shoup stated he would cut back the foliage to create a better view when exiting the property.

Mr. Shoup stated he did not understand the Health Department comment, Mr. Hodge explained.

No one else spoke in favor or against the application.

On motion made by Mr. VanLuven and seconded by Ms. Mailler, in application No. 50061, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.

5-302

Additional Standards for Tourist Homes and Boarding Houses

1. Such a use shall provide accommodations for not more than twelve (12) persons.
2. Off-street parking for the use shall be in accordance with the provisions of Article 7, shall not be located in any required front yard, and shall be effectively screened.
3. Such a use shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Supervisors or the Board of Zoning Appeals finds that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.

4. In Residential and Rural Zoning Districts, the Building(s) so used shall have the exterior appearance of a single family residence and normal residential accessory structures.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)

- (a) site plan approval as required.

Pursuant to §2.1-344 (a)(7) of the Code of Virginia, Mr. Meadows moved to go into Closed Meeting for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to litigation filed against the Board of Zoning Appeals by Henry Merkli and Roy L. and Lou Anne Boatwright. Motion carried.

The BZA held a Closed Meeting.

The Fauquier County Board of Zoning Appeals, having adjourned into Closed Meeting this day for the purposes stated in the resolution authorizing such Session, does hereby certify that to the best of each member's knowledge (I) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (II) only such public business matters as were identified in the motion by which the Closed Meeting was convened, were heard, discussed or considered in the Closed Meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Mr. Meadows, seconded by Mr. VanLuven.

AYES: Mr. Barr, Mr. Meadows, Mrs. Mailler, Mr. VanLuven, Mr. Lofdahl and Ms. Addison.

NAYS: None

ABSTENTION: None

ABSENT: Mr. Tufts

BZA TRAINING: Ms. Albert reminded the Board of Zoning Appeals of the training session with the County Attorney's Office is scheduled for September 19, 2002, 11:00 a.m. – 2 p.m.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 3:00 P.M.

William W. Barr, Chairman

Margaret Mailler, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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